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5 *In propria persona*
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7
8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF ARIZONA

10 Jason Crews,
11 Plaintiff,
12 vs.
13 Bankers Life Advisory Services, Inc, *et al.*
14 Defendants
15

Case No.: 2:23-cv-02658-SMB

PLAINTIFF'S MOTION FOR SUMMARY
JUDGMENT

16 **PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT**
17

18 **INTRODUCTION**

19 Plaintiff, Jason Crews, pursuant to Rule 56 of the Federal Rules of Civil Procedure,
20 respectfully moves this Court for summary judgment against Defendant James Covington
21 ("Covington") (a) declaring that Covington violated the TCPA by placing seven
22 telemarketing phone calls with an Automated Telephone Dialing System, (b) declaring that
23 Covington violated the TCPA by placing seven telemarketing calls to a number on the
24 Federal Do-Not-Call List, (c) that all said violations were willful, (d) awarding Plaintiff \$500
25 for each violation and, and trebling said damages for each willful violation, (e) awarding
26 Plaintiff his filing fee of \$405, and (e) together with such other and further relief as the Court
27 deems just and proper.
28

1 There exists no genuine dispute of material fact in this matter and Plaintiff is their for
2 entitled to judgment as a matter of law.

3 4 **II. LEGAL STANDARD**

5 Summary judgment is proper when “there is no genuine dispute as to any material
6 fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(a). When a
7 party fails to respond to Requests for Admissions, those matters are deemed admitted. Fed.
8 R. Civ. P. 36(a)(3). Admissions obtained under Rule 36 can serve as the basis for summary
9 judgment. See *Conlon v. United States*, 474 F.3d 616, 621 (9th Cir. 2007).

10 11 **III. ARGUMENT**

12 13 **1. Defendants Admitted to Making Unsolicited Calls to Plaintiff Without Prior** 14 **Express Consent**

15 Defendants admitted that they or third parties acting on their behalf made multiple
16 unsolicited calls to Plaintiff’s cellular phone number on November 3, 2022; December 7,
17 2022; January 9, 2023; January 12, 2023; January 18, 2023; January 20, 2023; and January 24,
18 2023. (See Statement of Facts (“SOF”) ¶ 13-17). These calls were made to promote
19 Defendants’ goods and services, and Defendants lacked Plaintiff’s prior express consent for
20 these communications (SOF ¶ 19-21). Under the TCPA, these calls are prohibited, making
21 each call a distinct violation of 47 U.S.C. § 227(b).

22 **2. Defendants Used an Automatic Telephone Dialing System (ATDS) Without** 23 **Prior Express Consent**

24 Defendants further admitted that the calls were made using an ATDS, and they did not
25 possess Plaintiff’s prior express consent to make such calls (SOF ¶ 21). The TCPA prohibits
26 calls to cellular phones using an ATDS without the prior express consent of the called party.
27 See 47 U.S.C. § 227(b)(1)(A). Given these admissions, Defendants’ actions constitute clear
28 violations of the TCPA.

3. **Defendants Violated the National Do-Not-Call Regulations**

Defendants admitted that they or third parties acting on their behalf called Plaintiff more than twice within a twelve-month period, that they did not maintain an internal do-not-call list, and that they failed to scrub numbers against the national do-not-call list before making the calls (SOF ¶ 18, 22, 24). These actions violate 47 U.S.C. § 227(c) and its corresponding regulations, further solidifying Defendants' liability under the TCPA.

4. **No Genuine Dispute of Material Fact Exists**

The facts necessary to establish Defendants' liability under the TCPA have been deemed admitted by Defendants due to their failure to respond to Plaintiff's Requests for Admissions (SOF ¶ 11). Consequently, there is no genuine issue of material fact, and Plaintiff is entitled to judgment as a matter of law.

IV. CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that the Court grant his Motion for Summary Judgment, enter judgment in his favor, and award statutory damages as provided under the TCPA.

Dated this August 27, 2024.

/s/ Jason Crews

Jason Crews

COPIES of the forgoing were filed with the court electronically via CM/ECF this same date.

By: */s/ Jason Crews*

Jason Crews